

REMARKS

Claims 1-26 remain pending in the present application. Applicants respectfully submit that the outstanding Office Action is incomplete, as the Examiner has failed to indicate whether Applicants' traversal of the previous restriction/election of species requirement is made final. Likewise, the Examiner has failed to rebut Applicants' reasons for traversal. Reconsideration and withdrawal of the present election of species requirement, as well as the prior restriction/election requirement is respectfully requested.

In this regard, Applicants believe that the Examiner must provide some specific reasoning why the general inventive concepts asserted in the present specification, as discussed below and in their prior response, do not represent a clear contribution over the cited reference, WO 03/063693.

Election

The Examiner has required a supplemental election of species under 35 U.S.C. 121 and 372, and asserts that the following groups of inventions are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The Examiner requires election of (B) a single species of dye; (C) a single species of a solid support; (D) a single species of sample; (E) a single species of collector; and (F) a single species of enzyme. Applicants traverse the Examiner's requirement, as discussed below, but hereby provisionally elect the following species:

- (B) a vinyl sulfone dye;
- (C) a polymer support; readable on claims
- (D) a body fluid sample;

- (E) a membrane collector; and
- (F) a lysin enzyme.

Applicants submit that the elected species are collectively readable on at least claims 1-8 and 11-15.

Traversal is based upon the Examiner's conclusion that the identified Groups fail to relate to a single inventive concept, as lacking the same or corresponding technical features pursuant to PCT Rules 13.1 and 13.2. The Examiner states:

The species listed...do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the inventions of groups I-III do not share a common special technical feature, as the molecule of group I has been taught by WO 03/063693, who teaches a method for detecting the modification of a substrate (see abstract), thus the species listed above do not relate to a single general inventive concept under PCT Rule 13.1. (Office Action, page 3, second paragraph).

Applicants respectfully traverse the Examiner's finding, and direct attention to claim 1, which requires a "colorimetric component". The term "colorimetric component" is described at paragraph [0008], to wit:

A "colorimetric component" is defined herein as any component that provides color or fluorescence such as, but not limited to, a dye.

Further, at paragraph [0010], Applicants explain the action of the "colorimetric component":

The modification comprises cleaving at least a portion of the substrate, wherein the portion includes one of the colorimetric

Application No.: 10/576,634
Dated: June 12, 2009
Reply to Office Action Mailed: May 12, 2009

components and the cleaving results in a detectable signal (e.g., a visible color change). (Emphasis added).

Thus, claim 1 and all claims ultimately dependent thereon provide a contribution over the cited reference, WO 03/063693, which invariably measures color change with instrumentation. In contrast, Applicants further specify that the color change according to the present application is not measured with detection equipment.

As used herein, a "visible signal" includes a color change that is perceptible without any kind of detection equipment or enhancing equipments, such as a fluorometer. In other embodiments, the detectable signal is a change in color from one nonfluorescent color or hue to another. [0038]; emphasis added.

Accordingly, Applicants submit that all the species, which are readable on claim 1, present a clear contribution over the cited reference, and thus share a common special technical feature, as required by PCT Rules 13.1 and 13.2.

Withdrawal of the requirement for election of species is requested.

Applicants earnestly solicit a first action on the merits.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 50-2478 (14972).

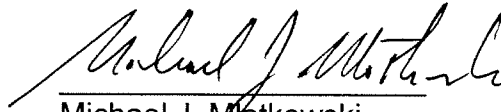
If the Examiner has any questions or wishes to discuss this application,

Application No.: 10/576,634
Dated: June 12, 2009
Reply to Office Action Mailed: May 12, 2009

the Examiner is invited to contact the undersigned representative at the number set forth below.

Respectfully submitted,

Date: June 12, 2009

A handwritten signature in black ink, appearing to read "Michael J. Mlotkowski", written over a horizontal line.

Michael J. Mlotkowski
Attorney for Applicants
Registration No. 33,020
(703) 584-3270

POST OFFICE ADDRESS to which
correspondence is to be sent:

Roberts, Mlotkowski Safran & Cole
P.O. Box 10064
McLean, VA 22102